



Millions of Yemenis are suffering from a water crisis and have to walk long distances to collect a few litres of water for their families. Photo: Oxfam, July 2015

BRITISH AID AND BRITISH ARMS: A COHERENT APPROACH TO YEMEN?

Yemen is among the worst humanitarian crises in the world.

British aid is saving lives, but British arms may be contributing to the growing number of civilian deaths, as evidence mounts of war crimes by all parties. Human rights groups have documented attacks on civilians by Houthi and coalition forces alike. Stephen O'Brien, the UN Under Secretary-General for Humanitarian Affairs, has condemned all parties' 'failure to meet their responsibilities under international humanitarian and international human rights laws', including Houthi and anti-Houthi groups, and Saudi-led airstrikes for being 'in clear contravention of international humanitarian law and unacceptable'.

Justine Greening, Secretary of State for International Development, warns that 'millions face starvation' as the conflict continues.¹

It is time to bring this devastating conflict to an end.

The UK government has declined to tell Parliament what arms the UK is still supplying to parties engaged in the conflict. It knows, as do we all, that civilians have been killed in indiscriminate attacks by all sides. The risk assessments required by both UK law and the Arms Trade Treaty should lead the UK to denying any further transfers, and suspending current export licences. The risk that UK arms could be used to harm civilians is too high, and therefore arms should not be sent to any side during this conflict.

Britain should be proud of the £55m it has already given to Yemen to meet its growing humanitarian needs. It should, however, suspend arms supplies to any party engaged in the conflict, and report fully to Parliament and the public on arms supplies already sent. The politics of the region are complex but that must not stop the UK from using its diplomatic influence and taking every possible step to push for a ceasefire and a negotiated peace. It must also continue to push for vital humanitarian and commercial supplies of food, fuel and medicine to enter the country.

Yemen: governorates, main cities and the surrounding region



RECOMMENDATIONS FOR UK ACTION

The UK government should:

- condemn in significantly more outspoken terms attacks on civilians by all sides, including by Houthi and anti-Houthi armed groups, and by Saudi-led coalition airstrikes;
- report to Parliament and the public on what UK arms have been supplied to any party engaged in Yemen's conflict since it escalated in March 2015, any restrictions placed on the end-use or end-user of that equipment as a condition of the transfer, on how it understands this equipment has been used, and the basis for that understanding;
- refrain from issuing any further export licences to any party to the conflict while a clear risk that they may be used to commit serious violations of international humanitarian or human rights law continues;
- suspend or revoke current licences under which deliveries may still be made, at least until Saudi Arabia and other coalition partners have in place mechanisms to ensure observance of international humanitarian law, in order to ensure that no future breaches of international humanitarian law can occur using UK-supplied equipment and arms;
- undertake an urgent examination of all UK arms transfers that have taken place, including since March 2015, to establish an accurate understanding as to whether they have contributed to violations of international law, including the death of civilians or destruction of civilian infrastructure;
- take account of the conclusions of that examination, and the risks of misuse of all arms in Yemen, in making rigorous risk assessments of all future applications for arms export licences;
- publicly reaffirm the UK's commitment to robustly and transparently implementing the Arms Trade Treaty;
- encourage the UN Security Council to urgently adopt a resolution on Yemen that states that no arms or equipment supplied to any combatant party can be used in Yemen, or in support of operations in Yemen;
- continue to push for vital humanitarian and commercial supplies to enter the country; and
- press for an immediate and permanent ceasefire, and a political solution that involves not only all parties to the conflict, but *all sections of Yemeni society*, including women, youth and the poor in rural communities whose rights and needs must be respected in any sustainable peace.

1 HUMANITARIAN CATASTROPHE

Twenty-one million Yemenis – 84 percent of the population – urgently need humanitarian aid. Before the conflict escalated in March 2015, Yemen was already wracked with poverty and insecurity and struggling in a transition to a better future. More than 10 million people were already going hungry every day.

Yemen was also, according to the 2014 Global Gender Gap Index, the worst place in the world to be a woman.³ Social and cultural norms had excluded Yemeni women from economic and political life, even though many took to the streets together with men in the country's popular uprising in 2011.⁴

Now Yemen's humanitarian needs are significantly worse, increasing by 33 percent since March. Yemen relies very heavily on commercial imports – for more than 80 percent of its food consumption, and 90 percent of some staple foods such as wheat. Since March, the Saudi-led coalition fighting the Houthis – one of several parties in Yemen's fragmented conflict – has blocked essential commercial supplies from reaching Yemen's main ports.⁵ This has severely disrupted the import of food, fuel, medicines and other vital supplies. Even when ships can dock, their goods are often stuck in ports due to the lack of fuel to unload and transport them – while ongoing violence affecting most major roads and cities continues to limit distribution around the country. As a result, almost all essential goods have been in short supply for five months.

There have also been critical fuel shortages, as a result of which water pumps no longer operate, and the price of essential commodities such as food, water and medicines have sky-rocketed. The limited quantities of food and medicine in Yemen's ports are at risk of spoiling as transport to markets is restricted.⁷ The lack of fuel to run generators – as well as the lack of medicines and other supplies – has also contributed to the closure of at least 160 health facilities.⁸ And the transition to a better future has been stalled in its tracks. While women, for example, remained marginalized after the 2011 uprising, there was some momentum at least towards women's rights and political participation, underpinned by the drafting of a new constitution. Now in 2015, with the country consumed by war, even those fragile gains have been rolled back, and negotiations to end the conflict have been almost entirely dominated by men.

Yemen's women must have a real role in any peace process, and a genuine voice in their country's future. Right now, however, they face the prospect of the very grim future shared by all Yemenis as continuing conflict makes the humanitarian crisis even worse.

'Since March, the skies of Saada are raining fire every day. Houses are destroyed, farms are burnt, and everyone's gone – they're dead or they've fled, nothing but death all around us. We are alive, but only until we die, senselessly, like the thousands that already beat us there'.

Noor, a woman who used to run a health clinic in Saada, Yemen²

'The conflict-driven convergence between the lack of staple food, access to clean water and a diminished fuel supply create the dawn of a perfect storm for the most vulnerable Yemeni people'.

Ertharin Cousin, Executive Director, World Food Programme⁶

Before March, Hodeidah was a busy port handling 60 percent of Yemen's imports.¹⁰ On 19 August, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that serious damage following coalition airstrikes on Hodeidah, now the main conduit for commercial and humanitarian supplies, 'will potentially deprive millions of people of food and prevent the import of fuel necessary to run health facilities, flour mills and water and sanitation works'.¹¹

Now, without an end to both the conflict and blockade, and the resumption of commercial activities, the humanitarian situation could become even more desperate. According to UNICEF, 1.8 million children are likely to suffer from malnutrition in 2015.¹²

In August, the World Food Programme warned that the conflict has put Yemen 'one step away from famine', as one in two people are struggling to get enough to eat, including more than 1.2 million children suffering from malnutrition.⁹

Box 1: The human impact of conflict and blockade

- More than 20 million people are without access to clean water and sanitation, due largely to the absence of fuel to pump water from underground wells.
- 15 million people have no access to basic medical care – 40 percent more than in March – especially in the cities of Aden, Taiz and Saada, and the governorate of Abyan, as hospitals shut down without medical supplies, power and clean water.
- More than 1.4 million people have fled their homes between 26 March and 19 August.
- More than 4,500 people – 'a vast number' of them civilians – have been killed, and 23,000 people injured in the same period.¹³

So many civilians have been killed because 'all parties to this conflict have displayed a ruthless and wanton disregard for the safety of civilians', according to Amnesty International on 18 August.¹⁴ Oxfam's teams, who are working throughout the country and across the de facto frontlines, have also seen abuses committed by both sides and the terrible toll the conflict is taking on civilians. As this paper was being finalized in early September the violence escalated further, with some of the most intense airstrikes to date in the capital Sana'a and other towns in retaliation for the killing of at least 60 coalition soldiers, including 45 Emirati soldiers, by the Houthis. The coalition has said that these latest airstrikes were directed at military targets, but once again, civilians have been killed and civilian infrastructure has been damaged.¹⁵

Box 2: Oxfam in Yemen

Oxfam – which has worked in Yemen for more than 30 years – has delivered aid to more than 300,000 people since March, and is working to reach more than 1 million as its access to vulnerable people improves.

Oxfam programmes have included trucking clean water to more than 75,000 people, building latrines for communities displaced by the conflict and providing cash assistance to families forced from their homes to allow them to buy food and other basics.

Working with local water authorities in Aden, Oxfam has also indirectly reached 1 million people with improved access to clean water.

Prior to the current escalation in conflict, Oxfam had a large-scale humanitarian and resilience programme in the country which benefited from DFID funding. Activities included cash-for-work, livelihoods support, supplying clean water and water resource management. There was a focus on women's economic and political participation, and supporting women's groups to set up small businesses and take active leadership roles in their communities. These activities have been on hold since the escalation in fighting.

For updated information, please see: http://www.oxfam.org.uk/what-we-do/emergency-response/yemen-crisis?intcmp=emerge_hero_yemen_20-08-2015

'My two-year-old niece still asks questions. I'm forced to lie. 'What is this sound Auntie? It's really scary'. I tell her it is just fireworks. But after more than 100 days of fireworks, I think she has figured it out'.

Hind, an Oxfam humanitarian worker, Sana'a, Yemen



'If the warring parties continue to carry out heavy shelling and airstrikes, more people will die'.

Salah Dongu'du, MSF project coordinator, Taiz,

A water tank supplied and installed by Oxfam in the Huth IDP camp. Many families have left Saada and travelled to Huth due to the ongoing conflict in Yemen. Photo: Oxfam

2 THE UK'S INVOLVEMENT

The UK, already a lead donor in Yemen, has given £44m in new aid to help Yemenis affected by 2015's escalating conflict – including those forced to flee their homes – supplying emergency shelter, healthcare, water and food. It has also supported the UN to coordinate other international humanitarian assistance. Since the beginning of the year, the total of DFID's humanitarian funding to Yemen is £55m. As Justine Greening said in June, 'thousands of Yemenis have already lost their lives in this latest wave of violence – but millions more are at risk of starving by the end of the year' if the conflict continues.¹⁷

Despite this risk, the conflict rages on and UK and other international appeals to minimize civilian suffering appear to have little influence, with over 2,300 civilian structures such as schools, hospitals and markets damaged, destroyed or commandeered by armed groups.¹⁸

At the same time, the UK has continued to supply Saudi Arabia with new bombs, both shortly before and during this year's conflict.

Between January and March this year, the UK approved two orders for bombs or missiles for Saudi Arabia, valued at £17m.¹⁹ The government has declined to give information on the amount of weaponry involved, but based on the cost of a previous order for Paveway IV bombs, this may have been for approximately 680 bombs.²⁰

Since then, the Ministry of Defence has told Parliament that the UK has continued to supply 'precision guided weapons'²¹ to Saudi Arabia under its existing arrangements. But Defence Secretary Michael Fallon declined to tell Parliament on 27 July 'how many precision guided missiles have been exported from the UK to Saudi Arabia since the start of the recent conflict in Yemen'; instead, he told Parliament that: 'I am withholding the information as its disclosure would, or would be likely to, prejudice relations between the United Kingdom and another state'.²² The Department for Business, Innovation and Skills also told Parliament in June that they had '...granted 37 export licences for military goods for Saudi Arabia since March 25...', but it did not provide any additional details.²³

The government has also confirmed that the UK is continuing its support and maintenance for UK-supplied equipment, with MoD military and civilian personnel, as well as BAE Systems personnel stationed in Saudi Arabia to support the Royal Saudi Air Force.²⁴

Box 3: Fuelling the conflict

Several other countries, including the US, Russia, Iran, Germany and France, have also reportedly supplied arms to the parties now fighting in Yemen, with supplies to the Houthis clouded in even more secrecy. According to the UN, Iran supplied the Houthis from at least 2009 to 2013,²⁶ but the Houthis also seem to have captured US shipments of tanks, armoured vehicles and aircraft to Yemen in the past²⁷ – a sign of the danger of arms exports to any side in volatile situations.²⁸ According to the media reports, Al-Qaeda in the Arabian Peninsula may have seized large stocks of arms from government depots, and also be using Saudi arms supplied to the ‘popular committees’ that have emerged, in the absence of any other government, in some areas of southern Yemen.²⁹

‘Pro-Houthi forces have been raining mortar shells and rockets onto populated areas of Aden with no apparent regard for the civilians remaining there. These unlawful attacks take a terrible human toll and should stop immediately’.

Ole Solvang, Human Rights Watch researcher²⁵

‘Cluster munitions are adding to the terrible civilian toll in Yemen’s conflict. Coalition forces should immediately stop using these weapons and join the treaty banning them’.

Ole Solvang, Human Rights Watch researcher³⁰

The UK has obligations under both the 2008 EU Common Position on Arms Exports, and the international Arms Trade Treaty, to ensure that arms transfers meet the UK’s goal of ensuring ‘respect for human rights and fundamental freedoms in the country of final destination, as well as respect by that country for international humanitarian law’, and that no authorization of arms exports will be issued without first conducting a rigorous risk assessment against legally binding criteria.³¹

UK ARMS CONTROLS AND THE ARMS TRADE TREATY

The UK has helped lead both the EU and the world towards tighter arms controls, and has taken the necessary steps to ensure its domestic legislation is consistent with its obligations under the EU Common Position on Arms Exports, and the Arms Trade Treaty which came into force on 24 December 2014. As Prime Minister David Cameron said, the new Treaty should not only prevent arms fuelling ‘brutal and destabilizing conflicts’, but also help ensure that all countries ‘play by the rules’ that the UK commits to following itself.³²

Alongside the Arms Trade Treaty’s other States Parties, the UK has a legal obligation to effectively implement it, including carrying out rigorous risk assessments before transferring arms, ammunition or equipment covered by it. According to the Treaty’s Article 7, each state ‘shall not authorize the export’ of arms if there is ‘an overriding risk’ that the arms or items exported ‘could be used’ to ‘commit or facilitate a serious violation’ of international humanitarian law or of international human rights law.³³

Amnesty International: All parties to the conflict, including members of the Saudi-led coalition, groups they support militarily, and their opponents were responsible for killing civilians in a manner that 'could amount to war crimes'.³⁴

In the words of the International Committee of the Red Cross, international humanitarian law makes absolutely clear that all parties to the conflict must at all times distinguish between civilians and combatants.³⁵ There is now mounting evidence that all sides to this conflict, including the Saudi-led coalition, but also others, have not done this in Yemen and that therefore there is a very real risk that British arms could be used to commit violations.

Also relevant, and in some ways more restrictive than the Arms Trade Treaty, is the UK's arms export law. The government should, it stipulates, 'not grant a licence if there is a clear risk that the items might be used in the commission of a serious violation of international humanitarian law'.³⁶

The government is also obliged under both UK law and the Arms Trade Treaty to take active efforts to understand how UK-supplied arms might be used, and to use that information in making risk assessments of potential arms exports.³⁷

Crucially, the UK's risk assessments do not have to depend on definite evidence of past misuse, but instead are premised on the risk of future misuse.³⁸ That future risk should be informed by, for example, in Yemen, the significant evidence from the UN, NGOs and the media that civilians have been killed in indiscriminate attacks in civilian areas.³⁹ As is clearly stated in the government's own criteria, in making arms export decisions it should take account of 'reliable evidence, including for example, reporting from diplomatic posts, relevant reports by international bodies, intelligence and information from open sources and non-governmental organisations'.⁴⁰

The UK government not only has an obligation to consider such risks before authorizing future exports; it also has the power and responsibility to suspend or revoke existing arms export licences where a breach of the Consolidated Criteria may occur.⁴¹ This clearly applies in Yemen today.

TIMELINE OF EVENTS, 2015: INCREASING CONCERN OVER ATTACKS ON CIVILIANS BY ALL SIDES⁴²

30 March 2015

At least 40 people were killed when Saudi aircraft bombed a camp of internally displaced people at Mazraq.⁴³

7 April

Human Rights Watch reported that at least seven people had been killed as Houthis used deadly force against protestors.⁴⁴

9 May

The UN criticized the bombing of the city of Saada, where many civilians have been killed, while Saudi officials were reported to regard the whole city as a 'military zone',⁴⁵ which would contradict the fundamental principle of international humanitarian law that civilian areas must be distinguished from military targets.

9 June

An Oxfam project (funded by the European Commission) harnessing solar power to pump water to 14 villages was hit by airstrikes. Over 100 solar panels were destroyed, depriving thousands of people in Hajjah Governorate of clean water.

30 June

Human Rights Watch documented coalition 'attacks that appeared to violate international humanitarian law...and resulted in numerous civilian deaths'.⁴⁶

20 July

Médecins Sans Frontières reported that 42 people had been killed as Houthis indiscriminately shelled the crowded neighbourhood of Dar Saad in Aden.⁴⁷

24 July

At least 65 civilians, including 10 children, were killed when coalition aircraft attacked the port city of Mokha in an attack that Human Rights Watch described as an 'apparent war crime'.⁴⁸

29 July

Human Rights Watch reported that indiscriminate Houthi mortar and rocket attacks had killed dozens of civilians, including children.⁴⁹

'On the morning of 8th May, Saudi aircraft dropped flyers declaring Saada a military zone and that bombing would commence after 7.00 in the evening. Without fuel, many civilians were unable to leave in time, and many others lost their homes and belongings in their sudden escape'.

Tariq Riebl, Head of Programmes, Oxfam Yemen

17 and 18 August

Coalition airstrikes on the port of Hodeidah – vital for humanitarian and commercial supplies – put the port out of action, destroying cranes vital for unloading even relatively small supplies.⁵⁰

18 August

Amnesty International documented both ‘unlawful coalition airstrikes in densely populated residential neighbourhoods’, and attacks by Houthi and anti-Houthi groups, all of which may have amounted to war crimes.⁵¹

21 August

Médecins Sans Frontières reported that 65 civilians had been killed in Saudi-led airstrikes in the province of Taiz that day, and also condemned heavy fighting by all sides, and challenged all parties to ‘stop attacking civilian targets, especially hospitals, ambulances and densely populated neighbourhoods’.⁵²

26 August

Human Rights Watch reported that dozens of civilians have been killed or wounded by cluster munitions which coalition forces appeared to have used, despite the inherently indiscriminate nature of such weapons, which the UK and another 116 countries have banned through the Convention on Cluster Munitions.⁵³

‘The coalition airstrikes on Hodeidah's port are yet another example of an attack on a civilian target by all sides in this conflict. These airstrikes follow the port's closure to vessels carrying vital commercial supplies for nearly a fortnight. Resuming supplies through Hodeidah, like other Yemeni ports, is essential’.

Philippe Clerc, Country Director, Oxfam Yemen



Houses destroyed in air strikes near Sana'a airport, Yemen, March 2015. Photo: Abbo Haitham

3 A NEW APPROACH THE UK COULD BE PROUD TO DEFEND

The UK can be proud of its aid to Yemen both in the long term and as one of the top donors to the 2015 escalating crisis. However, the government's unwillingness to disclose in full to Parliament what arms it is sending to Saudi Arabia, while apparently not having undertaken a rigorous risk assessment in line with legal obligations, raises concern. In addition, its failure to strongly condemn attacks on civilians by all sides, and its apparent inability to monitor the use of British arms, or to influence the parties to minimize civilian deaths, is deeply worrying.

There is clear evidence that all sides in Yemen's devastating conflict have failed to distinguish between civilians and combatants, the principle at the heart of international humanitarian law. As Stephen O'Brien has said, this includes Saudi-led airstrikes that have been 'in clear contravention' of that law.⁵⁴

Yemen's devastating conflict is being fought out in the midst of the Middle East's rapidly changing and extremely complex politics. Nobody pretends that the UK alone can resolve that.

But every week that Yemen's conflict goes on, more civilians die, and it risks becoming yet another terrible, protracted conflict of which the Middle East already has far too many. The UK must do everything it can to avoid this, in terms of its policy on arms exports, and also in other areas.

In the light of potential breaches of international law by Saudi Arabia and all other parties to the conflict in Yemen, and in accordance with the UK's legal obligations, the UK government should:

- condemn in significantly more outspoken terms attacks on civilians by all sides, including by Houthi and anti-Houthi armed groups, and by Saudi-led coalition airstrikes;
- report to Parliament and the public on what UK arms have been supplied to any party engaged in Yemen's conflict since it escalated in March 2015, any restrictions placed on the end-use or end-user of that equipment as a condition of the transfer, on how it understands this equipment has been used, and the basis for that understanding;
- refrain from issuing any further export licences to any party to the conflict while a clear risk that they may be used to commit serious violations of international humanitarian or human rights law continues;
- suspend or revoke current licences under which deliveries may still be made, at least until Saudi Arabia and other coalition partners have in place mechanisms to ensure observance of international humanitarian law, in order to ensure that no future breaches of international humanitarian law can occur using UK-supplied equipment and arms;
- undertake an urgent examination of all UK arms transfers that have taken place, including since March 2015, to establish an accurate understanding as to whether they have contributed to violations of international law,

'There is a paradox at the heart of the government's approach to Yemen. On the one hand the Department for International Development is generously funding efforts to help civilians caught up in the conflict, while on the other the government is fuelling the conflict that is causing unbearable human suffering.'

It is time the government stopped supporting this war and put its efforts into bringing an end to the carnage'.

Mark Goldring, Chief Executive, Oxfam GB

including the death of civilians or destruction of civilian infrastructure;

- take account of the conclusions of that examination, and the risks of misuse of all arms in Yemen, in making rigorous risk assessments of all future applications for arms export licences;
- publicly reaffirm the UK's commitment to robustly and transparently implementing the Arms Trade Treaty;
- encourage the UN Security Council to urgently adopt a resolution on Yemen that states that no arms or equipment supplied to any combatant party can be used in Yemen, or in support of operations in Yemen;
- continue to push for vital humanitarian and commercial supplies to enter the country; and
- press for an immediate and permanent ceasefire, and a political solution that involves not only all parties to the conflict, but *all sections of Yemeni society*, including women, youth and the poor in rural communities whose rights and needs must be respected in any sustainable peace.

NOTES

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- 30 Human Rights Watch (2015b), 'Yemen: Cluster munition rockets kill, injure dozens,' 26 August 2015: <https://www.hrw.org/news/2015/08/26/yemen-cluster-munition-rockets-kill-injure-dozens>
- 31 Hansard: 25 March 2014: Column 11WS: UK Consolidated Criteria, Criterion 2. <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140325/wmstext/140325m0001.htm#14032566000018>. Similarly, the principles of the Arms Trade Treaty include the clause: Respecting and ensuring respect for international humanitarian law in accordance with, inter alia, the Geneva Conventions of 1949, and respecting and ensuring respect for human rights in accordance with, inter alia, the Charter of the United Nations and the Universal Declaration of Human Rights, while the purposes of the Treaty include "Reducing human suffering". Text of the ATT as adopted by the UN General Assembly: [http://www.un.org/disarmament/ATT/docs/ATT_text_\(As_adopted_by_the_GA\)-E.pdf](http://www.un.org/disarmament/ATT/docs/ATT_text_(As_adopted_by_the_GA)-E.pdf)
- 32 The Guardian (2006), 'Cameron backs arms trade treaty', 10 May 2006: <http://www.guardian.co.uk/politics/2006/may/10/foreignpolicy.uk>
- 33 The full text of the Arms Trade Treaty can be found at the website of the UN Office of Disarmament Affairs: [http://www.un.org/disarmament/ATT/docs/ATT_text_\(As_adopted_by_the_GA\)-E.pdf](http://www.un.org/disarmament/ATT/docs/ATT_text_(As_adopted_by_the_GA)-E.pdf)
- Guidance on interpreting risk assessment can be found on the website of the International Committee of the Red Cross and Red Crescent (ICRC): <https://www.icrc.org/eng/assets/files/2013/icrc-analysis-draft-att.pdf>
- 34 Amnesty International (2015), op.cit.
- 35 ICRC (2005), 'IHL, Rule 1: The principle of distinction between civilians and combatants': https://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1_rule1
- 36 Hansard (2014b), 'Written Statement by the Secretary for Business, Innovation and Skills,' Column

11WS, 25 March 2014:

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140325/wmstext/140325m0001.htm#14032566000010>

- 37 Text of the Arms Trade Treaty, op cit., Article 7.1:
[http://www.un.org/disarmament/ATT/docs/ATT_text_\(As_adopted_by_the_GA\)-E.pdf](http://www.un.org/disarmament/ATT/docs/ATT_text_(As_adopted_by_the_GA)-E.pdf) The Ministerial Statement updating the Consolidated Criteria says that the criteria will be applied '...on a case-by-case basis taking into account all relevant information available at the time the licence application is assessed. While the Government recognise that there are situations where transfers must not take place, as set out in the following criteria, we will not refuse a licence on the grounds of a purely theoretical risk of a breach of one or more of those criteria. In making licensing decisions I will continue to take into account advice received from FCO, MOD, DFID, and other Government Departments and agencies as appropriate.' It adds that 'In the application of the above criteria, account will be taken of reliable evidence, including for example, reporting from diplomatic posts, relevant reports by international bodies, intelligence and information from open sources and non-governmental organisations.': Ministerial Statement on the Consolidated Criteria, op cit.
- 38 From the text of Criterion Two, it is clear that past misuse is one element to be considered in assessing future risk, but not the only one. Hansard (2014a), 'Written Statement by the Secretary for Business, Innovation and Skills', Column 9WS, 25 March 2014:
<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140325/wmstext/140325m0001.htm#14032566000018> The question of conducting forward looking risk assessment has been discussed by the UK Working Group on Arms in written submissions to the House of Commons Committees on Arms Export Controls. See for example:
<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/419/419we05.htm> Similarly, the text of Article 7 of the ATT requires a forward looking risk assessment, and allows for the possibility of mitigation of that risk. [http://www.un.org/disarmament/ATT/docs/ATT_text_\(As_adopted_by_the_GA\)-E.pdf](http://www.un.org/disarmament/ATT/docs/ATT_text_(As_adopted_by_the_GA)-E.pdf)
- 39 See for example reports by Amnesty International
<https://www.amnesty.org/en/latest/news/2015/05/yemen-scores-of-civilians-killed-and-injured-by-anti-aircraft-fire-and-airstrikes-on-weapons-depots/> and Human Rights Watch
<https://www.hrw.org/news/2015/07/27/yemen-coalition-strikes-residence-apparent-war-crime> and also statements by UN personnel <http://edition.cnn.com/2015/05/09/asia/saudi-airstrikes-yemen/>.
- 40 Consolidated Criteria, op. cit.: Column 14WS.
- 41 The UK government has powers under the Export Control Act of 2002 and secondary legislation to suspend or revoke export licences if circumstances change following the issuance of a licence. For example, in the wake of the 'Arab Spring' the government cancelled some 150 export licences to a variety of countries as a result of human rights or other abuses. See <https://www.gov.uk/guidance/overview-of-export-control-legislation> for detailed guidance. EU decisions can also lead to suspension or revocation of licences. For example, in 2013 the EU decided to suspend transfers of arms to Egypt that could be used for internal repression:
<http://blogs.bis.gov.uk/exportcontrol/uncategorized/notice-to-exporters-201323-eu-suspend-all-export-licences-to-egypt-of-any-equipment-which-might-be-used-for-internal-repression/>
- 42 Tragically, this is **not** an exhaustive list but simply illustrates that all sides in Yemen's conflict have been involved in indiscriminate attacks upon civilians.
- 43 The Times (2015), 'Arab coalition kills 40 in bombing of Yemen refugee camp,' 31 March 2015:
<http://www.thetimes.co.uk/tto/news/world/middleeast/article4397358.ece>
- 44 Human Rights Watch (2015c), 'Yemen: Houthis use deadly force against protesters,' 7 April 2015:
<https://www.hrw.org/news/2015/04/07/yemen-houthis-use-deadly-force-against-protesters>
- 45 BBC (2015), 'Yemen Conflict: UN criticises Saudi civilian bombings,' 10 May 2015:
<http://www.bbc.co.uk/news/world-middle-east-32677260>
- 46 Human Rights Watch (2015d), 'Targeting Saada: Unlawful Coalition Airstrikes on Saada City in Yemen,' 30 June 2015: <https://www.hrw.org/report/2015/06/30/targeting-saada/unlawful-coalition-airstrikes-saada-city-yemen>
- 47 Médecins Sans Frontières (2015b), 'Yemen: Houthis indiscriminately bomb Aden neighbourhood,' 20 July 2015: <http://www.doctorswithoutborders.org/article/yemen-houthis-indiscriminately-bomb-aden-neighborhood>
- 48 Human Rights Watch (2015e), 'Yemen: coalition strikes on residence apparent war crime,' 27 July 2015: <https://www.hrw.org/news/2015/07/27/yemen-coalition-strikes-residence-apparent-war-crime>
- 49 Human Rights Watch (2015a), op. cit.
- 50 World Maritime News (2015), 'Port Hodeidah bombed in Saudi-led airstrikes', 19 August 2015:
<http://worldmaritimeneews.com/archives/169287/port-hodeidah-bombed-in-saudi-led-airstrikes/>
- 51 Amnesty International (2015), op. cit.
- 52 Médecins Sans Frontières (2015a), op. cit.
- 53 Human Rights Watch (2015b), op. cit.
- 54 UN Office for the Coordination of Humanitarian Affairs (2015b), 'Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien – Statement to the Security Council on Yemen,' 19 August 2015: <http://reliefweb.int/report/yemen/under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-stephen-2>

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